

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: KELLY, Daniel P.

DATE: January 29, 2003

SERIAL NO.: 09/771,782

GROUP ART UNIT: 1732

FILED: 29 January 2001

EXAMINER: Edmund H. Lee

FOR: "Sports Projectile Shaped Bead Necklace and Method of Manufacture"

Attorney Docket No.: A00219US (98361.3)

DECLARATION OF DANIEL P. KELLY

I, Daniel P. Kelly, am the inventor of the inventions claimed in the above-referenced patent application.

On or about 26 April 2000, I first manufactured and sold necklaces as claimed in the above-referenced patent application. I have licensed rights under the above-referenced patent application to Innovative Marketing. Innovative Marketing sells necklaces in accordance with the claims of the above-referenced patent application to SSP, which maintains the site www.schoolspiritandpride.com. Thus, the necklaces shown at the site www.schoolspiritandpride.com are my own necklaces and could not have appeared prior to 26 April 2000.

I am not aware of any necklaces as claimed in the above-referenced patent application which existed before I invented the claimed sports necklaces.

For many years (from around 1991, when I first began selling necklaces, through the present) I have sold sports necklaces including hollow beads (please see the Information Disclosure Statement filed with the present patent application for photos of these old sports necklaces). For many years (from around 1991 through present) I have sold direct-molded Mardi Gras necklaces (Mardi Gras necklaces having typically spherical plastic beads molded onto a string, made in the manner in which the presently claimed necklaces are made). Before I invented the present necklaces, it never occurred to me, or to anyone I know or know of, to make direct-molded sports beads as claimed in my present application.

Since 2000 I have manufactured over 300,000 dozen sports necklaces as claimed in the present patent application. Over 80% of these have been sold so far. Sales are well over \$1 million. My licensee, Innovative Marketing, says that they have over 1,500 customers.

I am aware of many companies which are selling necklaces which I believe infringe claims of the above-referenced patent application. These companies include the following: Bead Sale, LLC, Fun Express, Inc., Oriental Trading Company, Inc.; and Prime Master. I believe that all of these companies copied my claimed necklaces (I understand that they buy these infringing necklaces from the same manufacturer in China (not my manufacturer, but another manufacturer which has copied my design)). I estimate that I have lost over \$100,000 in sales of my claimed sports necklaces to these companies and other infringers.

The undersigned hereby declares that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true, and that this statement is made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date

Daniel P. Kelly

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1/29/2003
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